

Interlocutory Order

IN THE MATTER OF

COCA-COLA BOTTLING COMPANY OF NEW YORK, INC.

Docket 8992. Interlocutory Order, August 11, 1978

This order grants complaint counsel's motion for reconsideration of a previous Commission denial of their request for an extension of time to file a brief.

ORDER GRANTING MOTION FOR RECONSIDERATION

On August 9, 1978, Complaint Counsel filed a Motion for Reconsideration of Order Denying Request for Eleven Day Extension of Time in Which to File Appeal Brief. Their initial request was denied on the ground that general allegations of burden are not sufficient for an extension of time.

Since complaint counsel's Motion for Reconsideration now cites with specificity their obligations in *Belton Electronics*, Dkt. 8928 and *Amway Corp.*, Dkt. 9023, that defect is cured. The Commission is aware of the time and work burdens associated with both cases and finds that those obligations are sufficient to justify this limited extension.

It is the Commission's intention that the time limitations set forth in Rule 3.52 are to be maintained. General allegations of burden, without more, will not suffice for an extension of time. Furthermore, specificity alone will not always carry the day. The Commission must be convinced that the burdens which counsel plead are genuine and not brought on by counsel's own lack of diligence. Accordingly,

It is ordered, That complaint counsel's Motion for Reconsideration of Order Denying Request for Eleven Day Extension of Time in Which to File Appeal Brief be, and the same hereby is, granted, and complaint counsel are given to and including August 22, 1978, within which to file an appeal brief.

Modifying Order

92 F.T.C.

IN THE MATTER OF

RUBBERMAID INCORPORATED

MODIFYING ORDER IN REGARD TO ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT*Docket 8939. Complaint, Sept. 5, 1973 — Modifying Order, Aug. 17, 1978*

This order reopens proceedings and modifies the cease and desist order issued on April 13, 1976, 41 FR 20161, 87 F.T.C. 676, by replacing Sections III and IV of the original order. The modification eliminates the requirement to send copies of the order to resellers of firm's products; provides a description of the required notice to be sent to resellers; and places the responsibility of sending such notice to indirect resellers on company's distributors.

ORDER MODIFYING ORDER TO CEASE AND DESIST

On August 7, 1978, respondent and complaint counsel jointly petitioned the Commission to reopen this proceeding to modify Sections III and IV of the order to cease and desist which issued on April 13, 1976, and became final on August 7, 1978.¹

Section III of the order requires that respondent provide its direct and indirect resellers a copy of the order and a notice describing generally respondent's policy relating to resale prices. Section III further provides that those customers terminated because they failed to comply with any refusal-to-deal provision, will be extended an offer to be reinstated. Finally, Section III provides for the treatment of complaints relating to the provisions of the notice.

Section IV requires respondents, for a period of five years, to send a copy of the order to new resellers to whom it directly sells.

By the proposed modification the order would describe the content of the notice to be sent to resellers and would relieve respondent of the requirement that it send a copy of the order to resellers. The proposed modification would further provide that respondent's distributors, rather than respondent, send notices to indirect resellers.

Because of the repeal of the McGuire Act and the consequent end of state-sanctioned resale price maintenance, several of the provisions in the order and the notice to be sent resellers are no longer relevant and would likely be misunderstood by resellers of respondent's products. As a further result of the abandonment of state-sanctioned resale price maintenance, respondent no longer is required to, nor does it, retain the names of indirect purchasers.

¹ Petitioners also filed on August 8, 1978, a Joint Motion for Suspension of Compliance. This order obviates the necessity for the requested suspension of compliance and therefore the motion is rejected.